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*Capital One, N.A.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CVD EQUIPMENT CORPORATION,	:	Civil Action No.: 10 CV 0573
	:	(RJH) (RLE)
Plaintiff,	:	
-against-	:	
TAIWAN GLASS INDUSTRIAL	:	
CORPORATION, and MIZUHO	:	
CORPORATE BANK, LTD.,	:	
Defendants.	:	

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TAIWAN GLASS INDUSTRIAL	:	
CORPORATION,	:	
Counterclaim Plaintiff,	:	
-against-	:	
CAPITAL ONE, N.A.,	:	
Counterclaim Defendant.	:	

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DECLARATION OF J. EMMETT MURPHY IN SUPPORT OF  
CAPITAL ONE, N.A.'S MOTION TO DISMISS COUNTERCLAIM

I, J. EMMETT MURPHY, declare:

1. I am an associate of the law firm King & Spalding, LLP, attorneys for defendant Capital One, N.A. ("Capital One"), in the above-captioned matter, and a member in good standing of the bar of this Court. I respectfully submit this declaration in support of Capital One's Motion to Dismiss. Attached are true and correct copies of documents referenced in Capital One's Memorandum of Law in Opposition to Taiwan Glass Industrial Corporation's ("Taiwan") Motion for Summary Judgment.

2. Attached hereto as Exhibit A is a true and correct copy of excerpts of ICC Uniform Customs and Practice for Documentary Credits (2007 Revision).

3. Attached hereto as Exhibit B is a true and correct copy of an agreement between Taiwan and CVD Corporation ("CVD") dated August 29, 2008.

4. Attached hereto as Exhibit C is a true and correct copy of a commercial letter of credit issued by Mizuho in favor of CVD, dated September 15, 2008.

5. Attached hereto as Exhibit D is a true and correct copy of excerpts of Commentary on UCP 600: Article-by-Article Analysis by the UCP 600 Drafting Group.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: February 18, 2011  
New York, New York

  
J. EMMETT MURPHY